

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No. 21-03016-01-CR-S-BCW
)
PATRICIA ASHTON DERGES,)
)
Defendant.)

ORDER

Before the Court is Defendant's Motion to Dismiss Superseding Indictment or, in the Alternative, to Recuse Assistant United States Attorney Shannon Kempf. (Doc. 46.) Upon review, the Motion will be **DENIED** without prejudice.

On January 20, 2021, Defendant was charged in a twenty-count indictment. (Doc. 1.) On February 1, 2021, Defendant appeared for arraignment and the Court issued a Scheduling and Trial Order, which stated, “[w]ithin thirty days from the date of this Order, the parties shall file any relevant pretrial motions.” (Doc. 5 at 7.) On March 26, 2021, Defendant was charged in a Superseding Indictment, and Defendant appeared for arraignment. (Docs. 18, 19.) The previously entered Scheduling and Trial Order remained in effect, and no extensions of time were requested. On August 30, 2021, Defendant filed the present Motion.

The court may set a deadline for pretrial motions. Fed. R. Crim. P. 12(c). If a party fails to file a pretrial motion by the deadline set by the court, the party waives that issue. Fed. R. Crim. P. 12(e). However, the court may still consider an untimely pretrial motion “if the party shows good cause.” Fed. R. Crim. P. 12(c)(3). Here, the Motion was filed beyond the March 3, 2021 deadline and without leave of Court to do so. Even allowing an additional thirty days from the date of arraignment on the Superseding Indictment, Defendant's Motion is untimely. Accordingly, the Motion is **DENIED** without prejudice.

IT IS SO ORDERED.

/s/ David P. Rush
DAVID P. RUSH
UNITED STATES MAGISTRATE JUDGE

DATE: September 1, 2021